



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1360/P2
MDK&JK:nwn:rs
stays →

P3
RMR

DOA:.....Hynek, BB0342 - Extending universal service fund assessment to cellular providers and appropriating assessments for shared revenue purposes

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

NOTE

and wireless 911 fund

1

AN ACT ^{don't gen.} relating to: the budget.

Analysis by the Legislative Reference Bureau

SHARED REVENUE

Under current law, county and municipal aid and expenditure restraint (shared revenue) payments are made from the general fund. Under the bill, a portion of the shared revenue payments are made from the state universal service fund. The bill also requires that the amount that each county and municipality spends each year for emergency services is no less than the amount spent for such services in 2009. If a county or municipality spends less than that amount in any year without DOR's approval, DOR may reduce that portion of the county's or municipality's shared revenue payment that is paid from the universal service fund, in an amount determined by DOR.

payments

STATE GOVERNMENT

and the wireless 911 fund

2010

PUBLIC UTILITY REGULATION

Under current law, with certain exceptions, telecommunications providers must contribute to the state universal service fund (USF), which is used for promoting universal access to telecommunications service and for other specified purposes. Based on the amounts appropriated for such purposes, the PSC must determine how much each telecommunications provider must contribute to the USF.

stet.

INSEAT 2A

Telecommunications providers are allowed to establish surcharges or rate adjustments on bills to collect USF contributions from their customers. One of the exceptions to the requirement to contribute to the USF applies to wireless telephone companies, which are referred to under federal and state law as commercial mobile radio service providers (CMRSPs). Current law allows the PSC to require a CMRSP to contribute to the USF only if the PSC promulgates rules that designate CMRSPs as eligible to receive universal service funding under the state USF program, as well as a comparable federal program. This bill eliminates the exception for CMRSPs by eliminating the requirement that the PSC must promulgate such rules. *payments*

The bill also requires a portion of county and municipal aid ~~and expenditure restraint~~ (shared revenue) ~~payments~~ to be made from the USF. The PSC must include the amount of such payments in determining how much a telecommunications provider, including a CMRSP, must contribute to the USF. If a telecommunications provider establishes a surcharge or rate adjustment on bills to collect the portion of a telecommunications provider's contribution to the USF that is necessary for the shared revenue payments, the telecommunications provider must identify the surcharge or rate adjustment as "911 and emergency response surcharge" or "911 and emergency response adjustment."

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.835 (1) (c) of the statutes is amended to read:

2 20.835 (1) (c) *Expenditure restraint program account.* A sum sufficient to make
3 the payments under s. 79.05, less the amount paid from the appropriation under par.
4 (q).

5 **SECTION 2.** 20.835 (1) (db) of the statutes is amended to read:

6 20.835 (1) (db) *County and municipal aid account.* Beginning in 2004, a A sum
7 sufficient to make payments to counties, towns, villages, and cities under s. 79.035,
8 less the amount paid from the appropriation under par. (r). *(q) and*

9 **SECTION 3.** 20.835 (1) (q) of the statutes is created to read:

*wireless 911**County and municipal aid; wireless 911 fund*

1 20.835 (1) (q) *Expenditure restraint program account; universal service fund;*

2 From the ~~universal service~~ fund, the amounts in the schedule to make payments

3 under s. 79.05 *79.035* *No money may be encumbered or expended from this appropriation after December 31, 2012*

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

4 **SECTION 4.** 20.835 (1) (r) of the statutes is created to read:

5 20.835 (1) (r) *County and municipal aid account; universal service fund.* From
6 the universal service fund, the amounts in the schedule to make payments to
7 counties, towns, villages, and cities under s. 79.035.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

8 **SECTION 5.** ~~79.01 (1) of the statutes is amended to read:~~

9 79.01 (1) There is established an account in the general fund entitled the
10 "Expenditure Restraint Program Account." There shall be appropriated to that
11 account \$25,000,000 in 1991, in 1992, and in 1993; \$42,000,000 in 1994; \$48,000,000
12 in each year beginning in 1995 and ending in 1999; \$57,000,000 in the year 2000 and
13 in the year 2001; \$57,570,000 in 2002; and \$58,145,700 in 2003 and in each year
14 thereafter, less any amount paid from the appropriation under s. 20.835 (1) (q).

15 **SECTION 6.** 79.035 (1) of the statutes is amended to read:

16 79.035 (1) In 2004 and subsequent years, each county and municipality shall
17 receive a payment from the county and municipal aid account and from the
18 appropriation *5* under s. 20.835 (1) (r) in an amount determined under sub. (2). *(q) and*

19 **SECTION 7.** 79.07 of the statutes is created to read:

20 **79.07 Expenditures for emergency services.** (1) Except as provided in
21 sub. (3), beginning in *2011* ~~2010~~, the amount that each county and municipality spends
22 each year for emergency services shall be no less than the amount that the county

beginning in 2011

1 or municipality spent in 2009²⁰¹⁰ for emergency services, not including one-time
2 expenses. Each county and municipality shall report the amount it spent for
3 emergency services in 2009²⁰¹⁰, and the amount of its one-time expenses, to the
4 department of revenue at the time and in the manner prescribed by the department.

5 (2) The department of revenue may adjust any amount reported under sub. (1)
6 to more accurately reflect the amount that the county or municipality submitting the
7 report spent for emergency services.✓

8 (3) A county or municipality may decrease the amount it spends for emergency
9 services below its 2009²⁰¹⁰ amount, with the department of revenue's approval, if the
10 decrease in expenditures is a result of operating more efficiently, as determined by
11 the department. For purposes of this section, any decrease approved under this
12 paragraph shall permanently decrease the base amount of expenses for emergency
13 services provided in the county or municipality requesting the decrease by the
14 amount of the decrease.✓

15 (4) If a county or municipality fails to comply with this section, the department
16 of revenue may reduce that portion of the county's or municipality's payment under
17 s. 79.035[✓] or 79.05²⁰¹⁰ that is paid from the appropriation under s. 20.835 (1) (q) or (r),
18 in an amount determined by the department.✓

19 SECTION 8. 196.202 (2) of the statutes is amended to read:

20 196.202 (2) SCOPE OF REGULATION. A commercial mobile radio service provider
21 is not subject to ch. 201 or this chapter, except as provided in sub. (5), and except that
22 a commercial mobile radio service provider is subject to s. 196.218 (3) if the
23 ~~commission promulgates rules that designate commercial mobile radio service~~
24 ~~providers as eligible to receive universal service funding under both the federal and~~
25 ~~state universal service fund programs. If the commission promulgates such rules,~~

1 ~~a commercial mobile radio service provider~~ and shall respond, subject to the
2 protection of the commercial mobile radio service provider's competitive
3 information, to all reasonable requests for information about its operations in this
4 state from the commission necessary to administer ~~the universal service fund~~ s.
5 196.218 (3).

6 **SECTION 9.** 196.218 (3) (a) 3. c. of the statutes is created to read:

7 196.218 (3) (a) 3. c. The amount appropriated under s. 20.835 (1) (q) and (r).

8 **SECTION 10.** 196.218 (3) (e) of the statutes is renumbered 196.218 (3) (e) 1. a.
9 and amended to read:

10 196.218 (3) (e) 1. a. A telecommunications provider or other person may
11 establish a surcharge on customers' bills to collect from customers contributions
12 required ~~under this subsection~~ to generate the amounts specified in par. (a) 3. a. and
13 b.

14 **SECTION 11.** 196.218 (3) (e) 1. b. of the statutes is created to read:

15 196.218 (3) (e) 1. b. A telecommunications provider or other person may
16 establish a surcharge on customers' bills to collect from customers contributions
17 required to generate the amounts specified in par. (a) 3. c. If a telecommunications
18 provider or other person establishes such a surcharge, the provider or other person
19 shall identify the surcharge on bills as "911 and emergency response surcharge."

20 **SECTION 12.** 196.218 (3) (e) 2. of the statutes is created to read:

21 196.218 (3) (e) 2. The commission shall provide telecommunications providers
22 and other persons the information necessary to establish the surcharges allowed
23 under subd. 1. a. and b.

24 **SECTION 13.** 196.218 (3) (f) of the statutes is amended to read:

SECTION 13

1 196.218 (3) (f) Notwithstanding ss. 196.196 (1) and (5) (d) 2., 196.20 (2m), (5)
2 and (6), 196.213 and 196.215, a telecommunications utility that provides local
3 exchange service may make adjustments to local exchange service rates for the
4 purpose of recovering its contributions to the universal service fund required under
5 this subsection. A telecommunications utility that adjusts local exchange service
6 rates for the purpose of recovering such contributions shall separately identify on
7 customer bills ~~a single amount that is the total amount~~ the portion of the
8 adjustment ~~that is necessary to generate the amounts specified in par. (a) 3. a. and~~
9 b. and the portion of the adjustment that is necessary to generate the amount
10 specified in par. (a) 3. c., and shall identify the portion necessary to generate the
11 amount specified in par. (3) (a) 3. c. as "911 and emergency response adjustment."
12 The ~~public service~~ commission shall provide telecommunications utilities the
13 information necessary to identify such ~~amounts~~ portions on customer bills.

14 **SECTION 14.** 196.218 (5) (a) 12. of the statutes is created to read:

15 196.218 (5) (a) 12. For the purposes provided in the appropriations under s.
16 20.835 (1) (q) and (r).

17 (END)

↑
INSERT 6-14

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1360/P3ins
MDK:.....

1

INSERT 2A:

Under current law, the PSC makes grants from the wireless 911 fund to wireless companies and local governments to reimburse certain costs incurred in complying with federal requirements regarding wireless 911 emergency telephone service. Current law requires that costs must be incurred during a specified reimbursement period in order to be eligible for reimbursement. The PSC has promulgated a rule that requires the PSC, at the conclusion of the reimbursement period, to make distributions to wireless companies of any funds remaining in the wireless 911 fund that are not otherwise disbursed or obligated. The rule requires a wireless company to credit customer accounts in amounts that correspond to the distribution made to the wireless company. This bill prohibits the PSC from making any distribution from the 911 wireless fund that is not a grant for reimbursement of the costs described above. As a result, the PSC may not the distributions under the rule.

2

make **INSERT 6-16:**

3

SECTION 1. 256.35 (3m) (em) of the statutes is created to read:

4

256.35 (**3m**) (em) *Fund limitation*. Except for grants under par. (d) or (e), the

5

commission may not make any distribution from the wireless 911 fund to any person.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1360/P3dn

MDK:.....

nwn

Date

Sara Hynek:

You requested language prohibiting disbursements from the wireless 911 fund after April 1, 2009, but such a prohibition is already included in s. 20.155 (3) (q). Therefore, I drafted s. 256.35 (3m) (em), which prohibits the PSC from making any distribution from the wireless 911 fund that is not a grant.

However, note that the prohibition will not go into effect until the effective date of the budget (i.e., July 1, 2009 or the day after publication, whichever is later). Therefore, the prohibition will not apply to any distributions the PSC makes before the effective date to wireless providers for customer rebates under s. PSC 173.11 (7), Wis. Adm. Code. I'm not sure how you want to address this issue.

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1360/P3dn
MDK:nwn:ph

January 21, 2009

Sara Hynek:

You requested language prohibiting disbursements from the wireless 911 fund after April 1, 2009, but such a prohibition is already included in s. 20.155 (3) (q). Therefore, I drafted s. 256.35 (3m) (em), which prohibits the PSC from making any distribution from the wireless 911 fund that is not a grant.

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Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.wisconsin.gov

Kreye, Joseph

From: Hynek, Sara - DOA [Sara.Hynek@Wisconsin.gov]
Sent: Friday, January 23, 2009 3:52 PM
To: Kunkel, Mark; Kreye, Joseph
Subject: FW: LRB Draft: 09-1360/P3 Extending universal service fund assessment to cellular providers and appropriating assessments for shared revenue purposes
Attachments: 09-1360/P3.pdf; 09-1360/P3dn.pdf

Hello gentlemen,

In the attached draft, the changes to s. 79.035 (Section 4) state that payments will be made from the new appropriations beginning in 2011. Our intent is to use \$25M from the wireless 911 fund in FY10 (one time), and \$43M from the USF in FY11 (and thereafter). Should this read "beginning in 2010," or is this related to the timing of the payments? I would think we could still get at the November 2009 payment (for FY10) with the \$25M from wireless 911, if we wanted to?

Section 5 ties the maintenance of effort to the shared revenue funded by wireless 911 (see p. 4 line 13). Since the maintenance of effort is really about the universal service piece, I think we can remove the reference to (1)(q).

Also, in Section 7 amends the USF statute sections but includes a reference to 20.835(1)(q), which is the wireless 911 funded portion. I think the reference to (1)(q) should be removed.

Let me know if you have any questions. Thanks!

Sara Hynek
Dept. of Administration
608-266-1923

From: Henry, Patty [mailto:Patty.Henry@legis.wisconsin.gov]
Sent: Wednesday, January 21, 2009 3:10 PM
To: Hynek, Sara - DOA
Cc: Grinde, Kirsten - DOA; Hanaman, Cathlene - LEGIS; Beadles, Kathleen - DOA
Subject: LRB Draft: 09-1360/P3 Extending universal service fund assessment to cellular providers and appropriating assessments for shared revenue purposes

Following is the PDF version of draft 09-1360/P3.

01/23/2009



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1360/P3
MDK&JK:nwn:ph

py
bjk
RMT

DOA:.....Hynek, BB0342 - Extending universal service fund assessment to cellular providers and appropriating assessments for shared revenue purposes

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

SA -

in 1-24-09

do not gen.

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

SHARED REVENUE

Under current law, county and municipal aid payments (shared revenue) are made from the general fund. Under the bill, a portion of the shared revenue payments are made from the state universal service fund and wireless 911 fund. The bill also requires that the amount that each county and municipality spends each year for emergency services is no less than the amount spent for such services in 2010. If a county or municipality spends less than that amount in any year without DOR's approval, DOR may reduce that portion of the county's or municipality's shared revenue payment that is paid from the universal service fund and the wireless 911 fund, in an amount determined by DOR.

STATE GOVERNMENT

PUBLIC UTILITY REGULATION

Under current law, with certain exceptions, telecommunications providers must contribute to the state universal service fund (USF), which is used for promoting universal access to telecommunications service and for other specified purposes. Based on the amounts appropriated for such purposes, the PSC must determine how much each telecommunications provider must contribute to the USF.

Telecommunications providers are allowed to establish surcharges or rate adjustments on bills to collect USF contributions from their customers. One of the exceptions to the requirement to contribute to the USF applies to wireless telephone companies, which are referred to under federal and state law as commercial mobile radio service providers (CMRSPs). Current law allows the PSC to require a CMRSP to contribute to the USF only if the PSC promulgates rules that designate CMRSPs as eligible to receive universal service funding under the state USF program, as well as a comparable federal program. This bill eliminates the exception for CMRSPs by eliminating the requirement that the PSC must promulgate such rules.

The bill also requires a portion of county and municipal aid payments (shared revenue) to be made from the USF. The PSC must include the amount of such payments in determining how much a telecommunications provider, including a CMRSP, must contribute to the USF. If a telecommunications provider establishes a surcharge or rate adjustment on bills to collect the portion of a telecommunications provider's contribution to the USF that is necessary for the shared revenue payments, the telecommunications provider must identify the surcharge or rate adjustment as "911 and emergency response surcharge" or "911 and emergency response adjustment."

Under current law, the PSC makes grants from the wireless 911 fund to wireless companies and local governments to reimburse certain costs incurred in complying with federal requirements regarding wireless 911 emergency telephone service. Current law requires that costs must be incurred during a specified reimbursement period in order to be eligible for reimbursement. The PSC has promulgated a rule that requires the PSC, at the conclusion of the reimbursement period, to make distributions to wireless companies of any funds remaining in the wireless 911 fund that are not otherwise disbursed or obligated. The rule requires a wireless company to credit customer accounts in amounts that correspond to the distribution made to the wireless company. This bill prohibits the PSC from making any distribution from the 911 wireless fund that is not a grant for reimbursement of the costs described above. As a result, the PSC may not make the distributions under the rule.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.835 (1) (db) of the statutes is amended to read:

2 20.835 (1) (db) *County and municipal aid account.* ~~Beginning in 2004, a~~ A sum
3 sufficient to make payments to counties, towns, villages, and cities under s. 79.035,
4 less the amount paid from the appropriations under pars. (q) and (r).

5 **SECTION 2.** 20.835 (1) (q) of the statutes is created to read:

1 20.835 (1) (q) *County and municipal aid account; wireless 911 fund.* From the
2 wireless 911 fund, the amounts in the schedule to make payments under s. 79.035.
3 No moneys may be encumbered or expended from this appropriation after December
4 31, 2012.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

5 **SECTION 3.** 20.835 (1) (r) of the statutes is created to read:
6 20.835 (1) (r) *County and municipal aid account; universal service fund.* From
7 the universal service fund, the amounts in the schedule to make payments to
8 counties, towns, villages, and cities under s. 79.035.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

9 **SECTION 4.** 79.035 (1) of the statutes is amended to read:
10 79.035 (1) In 2004 and subsequent years, each county and municipality shall
11 receive a payment from the county and municipal aid account and, beginning in 2011,
12 from the appropriations under s. 20.835 (1) (q) and (r) in an amount determined
13 under sub. (2).

with payments in November 2009

14 **SECTION 5.** 79.07 of the statutes is created to read:
15 **79.07 Expenditures for emergency services.** (1) Except as provided in
16 sub. (3), beginning in 2011, the amount that each county and municipality spends
17 each year for emergency services shall be no less than the amount that the county
18 or municipality spent in 2010 for emergency services, not including one-time
19 expenses. Each county and municipality shall report the amount it spent for
20 emergency services in 2010, and the amount of its one-time expenses, to the
21 department of revenue at the time and in the manner prescribed by the department.

1 (2) The department of revenue may adjust any amount reported under sub. (1)
2 to more accurately reflect the amount that the county or municipality submitting the
3 report spent for emergency services.

4 (3) A county or municipality may decrease the amount it spends for emergency
5 services below its 2010 amount, with the department of revenue's approval, if the
6 decrease in expenditures is a result of operating more efficiently, as determined by
7 the department. For purposes of this section, any decrease approved under this
8 paragraph shall permanently decrease the base amount of expenses for emergency
9 services provided in the county or municipality requesting the decrease by the
10 amount of the decrease.

11 (4) If a county or municipality fails to comply with this section, the department
12 of revenue may reduce that portion of the county's or municipality's payment under
13 s. 79.035 that is paid from the appropriation under s. 20.835 (1) (q) or (r), in an
14 amount determined by the department.

15 **SECTION 6.** 196.202 (2) of the statutes is amended to read:

16 196.202 (2) SCOPE OF REGULATION. A commercial mobile radio service provider
17 is not subject to ch. 201 or this chapter, except as provided in sub. (5), and except that
18 a commercial mobile radio service provider is subject to s. 196.218 (3) if the
19 ~~commission promulgates rules that designate commercial mobile radio service~~
20 ~~providers as eligible to receive universal service funding under both the federal and~~
21 ~~state universal service fund programs. If the commission promulgates such rules,~~
22 ~~a commercial mobile radio service provider~~ and shall respond, subject to the
23 protection of the commercial mobile radio service provider's competitive
24 information, to all reasonable requests for information about its operations in this

1 state from the commission necessary to administer the universal service fund s.
2 196.218 (3).

3 **SECTION 7.** 196.218 (3) (a) 3. c. of the statutes is created to read:

4 196.218 (3) (a) 3. c. The amount appropriated under s. 20.835 (1) (q) and (r).

5 **SECTION 8.** 196.218 (3) (e) of the statutes is renumbered 196.218 (3) (e) 1. a. and
6 amended to read:

7 196.218 (3) (e) 1. a. A telecommunications provider or other person may
8 establish a surcharge on customers' bills to collect from customers contributions
9 required under this subsection to generate the amounts specified in par. (a) 3. a. and
10 b.

11 **SECTION 9.** 196.218 (3) (e) 1. b. of the statutes is created to read:

12 196.218 (3) (e) 1. b. A telecommunications provider or other person may
13 establish a surcharge on customers' bills to collect from customers contributions
14 required to generate the amounts specified in par. (a) 3. c. If a telecommunications
15 provider or other person establishes such a surcharge, the provider or other person
16 shall identify the surcharge on bills as "911 and emergency response surcharge."

17 **SECTION 10.** 196.218 (3) (e) 2. of the statutes is created to read:

18 196.218 (3) (e) 2. The commission shall provide telecommunications providers
19 and other persons the information necessary to establish the surcharges allowed
20 under subd. 1. a. and b.

21 **SECTION 11.** 196.218 (3) (f) of the statutes is amended to read:

22 196.218 (3) (f) Notwithstanding ss. 196.196 (1) and (5) (d) 2., 196.20 (2m), (5)
23 and (6), 196.213 and 196.215, a telecommunications utility that provides local
24 exchange service may make adjustments to local exchange service rates for the
25 purpose of recovering its contributions to the universal service fund required under

1 this subsection. A telecommunications utility that adjusts local exchange service
2 rates for the purpose of recovering such contributions shall separately identify on
3 customer bills ~~a single amount that is the total amount~~ the portion of the
4 adjustment ~~that is necessary to generate the amounts specified in par. (a) 3. a. and~~
5 b. and the portion of the adjustment that is necessary to generate the amount
6 specified in par. (a) 3. c., and shall identify the portion necessary to generate the
7 amount specified in par. (3) (a) 3. c. as "911 and emergency response adjustment."
8 The ~~public service~~ commission shall provide telecommunications utilities the
9 information necessary to identify such ~~amounts~~ portions on customer bills.

10 **SECTION 12.** 196.218 (5) (a) 12. of the statutes is created to read:

11 196.218 **(5)** (a) 12. For the purposes provided in the appropriations under s.
12 20.835 (1) (q) and (r).

13 **SECTION 13.** 256.35 (3m) (em) of the statutes is created to read:

14 256.35 **(3m)** (em) *Fund limitation.* Except for grants under par. (d) or (e), the
15 commission may not make any distribution from the wireless 911 fund to any person.

16 (END)

Kreye, Joseph

From: Hynek, Sara - DOA [Sara.Hynek@Wisconsin.gov]
Sent: Sunday, January 25, 2009 9:44 AM
To: Kreye, Joseph; Kunkel, Mark
Subject: FW: LRB Draft: 09-1360/P4 Extending universal service fund assessment to cellular providers and appropriating assessments for shared revenue purposes
Attachments: 09-1360/P4.pdf

Gentlemen, I'm very sorry, can we change the base year for the maintenance of effort back to 2009? Thanks!

Sara Hynek
Dept. of Administration
608-266-1923

From: Henry, Patty [mailto:Patty.Henry@legis.wisconsin.gov]
Sent: Saturday, January 24, 2009 7:30 PM
To: Hynek, Sara - DOA
Cc: Grinde, Kirsten - DOA; Hanaman, Cathlene - LEGIS; Beadles, Kathleen - DOA
Subject: LRB Draft: 09-1360/P4 Extending universal service fund assessment to cellular providers and appropriating assessments for shared revenue purposes

Following is the PDF version of draft 09-1360/P4.



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1360/P4
MDK&JK:wnn&bjk:ph

stays

RMR

DOA:.....Hynek, BB0342 - Extending universal service fund assessment to cellular providers and appropriating assessments for shared revenue purposes

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

in 1-26-09

don't gen

1 AN ACT !.; relating to: the budget.

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2009

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3 sufficient to make payments to counties, towns, villages, and cities under s. 79.035,
4 less the amount paid from the appropriations under pars. (q) and (r).

5 **SECTION 2.** 20.835 (1) (q) of the statutes is created to read:

20.835 (1) (q) *County and municipal aid account; wireless 911 fund.* From the wireless 911 fund, the amounts in the schedule to make payments under s. 79.035. No moneys may be encumbered or expended from this appropriation after December 31, 2012.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 3. 20.835 (1) (r) of the statutes is created to read:

20.835 (1) (r) *County and municipal aid account; universal service fund.* From the universal service fund, the amounts in the schedule to make payments to counties, towns, villages, and cities under s. 79.035.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 4. 79.035 (1) of the statutes is amended to read:

79.035 (1) In 2004 and subsequent years, each county and municipality shall receive a payment from the county and municipal aid account and, beginning with payments in November, 2009, from the appropriations under s. 20.835 (1) (q) and (r) in an amount determined under sub. (2).

SECTION 5. 79.07 of the statutes is created to read:

79.07 Expenditures for emergency services. (1) Except as provided in sub. (3), beginning in ²⁰¹⁰2011, the amount that each county and municipality spends each year for emergency services shall be no less than the amount that the county or municipality spent in ²⁰⁰⁹2010 for emergency services, not including one-time expenses. Each county and municipality shall report the amount it spent for emergency services in ²⁰⁰⁹2010 and the amount of its one-time expenses, to the department of revenue at the time and in the manner prescribed by the department.

(2) The department of revenue may adjust any amount reported under sub. (1) to more accurately reflect the amount that the county or municipality submitting the report spent for emergency services.

(3) A county or municipality may decrease the amount it spends for emergency services below its ²⁰⁰⁹2010 amount, with the department of revenue's approval, if the decrease in expenditures is a result of operating more efficiently, as determined by the department. For purposes of this section, any decrease approved under this paragraph shall permanently decrease the base amount of expenses for emergency services provided in the county or municipality requesting the decrease by the amount of the decrease.

(4) If a county or municipality fails to comply with this section, the department of revenue may reduce that portion of the county's or municipality's payment under s. 79.035 that is paid from the appropriation under s. 20.835 (1) (r), in an amount determined by the department.

SECTION 6. 196.202 (2) of the statutes is amended to read:

196.202 (2) SCOPE OF REGULATION. A commercial mobile radio service provider is not subject to ch. 201 or this chapter, except as provided in sub. (5), and except that a commercial mobile radio service provider is subject to s. 196.218 (3) if the ~~commission promulgates rules that designate commercial mobile radio service providers as eligible to receive universal service funding under both the federal and state universal service fund programs. If the commission promulgates such rules, a commercial mobile radio service provider~~ and shall respond, subject to the protection of the commercial mobile radio service provider's competitive information, to all reasonable requests for information about its operations in this

1 state from the commission necessary to administer ~~the universal service fund s.~~
2 196.218 (3).

3 **SECTION 7.** 196.218 (3) (a) 3. c. of the statutes is created to read:

4 196.218 (3) (a) 3. c. The amount appropriated under s. 20.835 (1) (r).

5 **SECTION 8.** 196.218 (3) (e) of the statutes is renumbered 196.218 (3) (e) 1. a. and
6 amended to read:

7 196.218 (3) (e) 1. a. A telecommunications provider or other person may
8 establish a surcharge on customers' bills to collect from customers contributions
9 required under this subsection to generate the amounts specified in par. (a) 3. a. and
10 b.

11 **SECTION 9.** 196.218 (3) (e) 1. b. of the statutes is created to read:

12 196.218 (3) (e) 1. b. A telecommunications provider or other person may
13 establish a surcharge on customers' bills to collect from customers contributions
14 required to generate the amounts specified in par. (a) 3. c. If a telecommunications
15 provider or other person establishes such a surcharge, the provider or other person
16 shall identify the surcharge on bills as "911 and emergency response surcharge."

17 **SECTION 10.** 196.218 (3) (e) 2. of the statutes is created to read:

18 196.218 (3) (e) 2. The commission shall provide telecommunications providers
19 and other persons the information necessary to establish the surcharges allowed
20 under subd. 1. a. and b.

21 **SECTION 11.** 196.218 (3) (f) of the statutes is amended to read:

22 196.218 (3) (f) Notwithstanding ss. 196.196 (1) and (5) (d) 2., 196.20 (2m), (5)
23 and (6), 196.213 and 196.215, a telecommunications utility that provides local
24 exchange service may make adjustments to local exchange service rates for the
25 purpose of recovering its contributions to the universal service fund required under

1 this subsection. A telecommunications utility that adjusts local exchange service
2 rates for the purpose of recovering such contributions shall separately identify on
3 customer bills ~~a single amount that is the total amount~~ the portion of the
4 adjustment ~~that is necessary to generate the amounts specified in par. (a) 3. a. and~~
5 b. and the portion of the adjustment that is necessary to generate the amount
6 specified in par. (a) 3. c., and shall identify the portion necessary to generate the
7 amount specified in par. (3) (a) 3. c. as "911 and emergency response adjustment."
8 The ~~public service~~ commission shall provide telecommunications utilities the
9 information necessary to identify such ~~amounts~~ portions on customer bills.

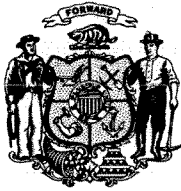
10 **SECTION 12.** 196.218 (5) (a) 12. of the statutes is created to read:

11 196.218 (5) (a) 12. For the purposes provided in the appropriations under s.
12 20.835 (1) (q) and (r).

13 **SECTION 13.** 256.35 (3m) (em) of the statutes is created to read:

14 256.35 (3m) (em) *Fund limitation.* Except for grants under par. (d) or (e), the
15 commission may not make any distribution from the wireless 911 fund to any person.

16 (END)



1-29-09
State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1360/P5
MDK&JK:nnw&bjk:rs

PP6

O-NOTE

RM has
used
RM

DOA:.....Hynek, BB0342 - Extending universal service fund assessment to cellular providers and appropriating assessments for shared revenue purposes

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

1

don't gen.
AN ACT ...; relating to: the budget.✓

Analysis by the Legislative Reference Bureau

SHARED REVENUE

Under current law, county and municipal aid payments (shared revenue) are made from the general fund. Under the bill, a portion of the shared revenue payments are made from the state universal service fund and wireless 911 fund. The bill also requires that the amount that each county and municipality spends each year for emergency services is no less than the amount spent for such services in 2009. If a county or municipality spends less than that amount in any year without DOR's approval, DOR may reduce that portion of the county's or municipality's shared revenue payment that is paid from the universal service fund, in an amount determined by DOR.

STATE GOVERNMENT

PUBLIC UTILITY REGULATION

Under current law, with certain exceptions, telecommunications providers must contribute to the state universal service fund (USF), which is used for promoting universal access to telecommunications service and for other specified purposes. Based on the amounts appropriated for such purposes, the PSC must determine how much each telecommunications provider must contribute to the USF.

paid

IN SEAT 2A

Telecommunications providers are allowed to establish surcharges or rate adjustments on bills to collect USF contributions from their customers. One of the exceptions to the requirement to contribute to the USF applies to wireless telephone companies, which are referred to under federal and state law as commercial mobile radio service providers (CMRSPs). Current law allows the PSC to require a CMRSP to contribute to the USF only if the PSC promulgates rules that designate CMRSPs as eligible to receive universal service funding under the state USF program, as well as a comparable federal program. This bill eliminates the exception for CMRSPs by eliminating the requirement that the PSC must promulgate such rules.

The bill also requires a portion of county and municipal aid payments (shared revenue) to be made from the USF. The PSC must include the amount of such payments in determining how much a telecommunications provider, including a CMRSP, must contribute to the USF. If a telecommunications provider establishes a surcharge or rate adjustment on bills to collect the portion of a telecommunications provider's contribution to the USF that is necessary for the shared revenue payments, the telecommunications provider must identify the surcharge or rate adjustment as "911 and emergency response surcharge" or "911 and emergency response adjustment."

Under current law, the PSC makes grants from the wireless 911 fund to wireless companies and local governments to reimburse certain costs incurred in complying with federal requirements regarding wireless 911 emergency telephone service. Current law requires that costs must be incurred during a specified reimbursement period in order to be eligible for reimbursement. The PSC has promulgated a rule that requires the PSC, at the conclusion of the reimbursement period, to make distributions to wireless companies of any funds remaining in the wireless 911 fund that are not otherwise disbursed or obligated. The rule requires a wireless company to credit customer accounts in amounts that correspond to the distribution made to the wireless company. This bill prohibits the PSC from making any distribution from the 911 wireless fund that is not a grant for reimbursement of the costs described above. As a result, the PSC may not make the distributions under the rule.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 1 **SECTION 1.** 20.835 (1) (db) of the statutes is amended to read:
- 2 20.835 (1) (db) *County and municipal aid account.* ~~Beginning in 2004, a~~ A sum
- 3 sufficient to make payments to counties, towns, villages, and cities under s. 79.035,
- 4 less the amount paid from the appropriations under pars. (q) and (r).
- 5 **SECTION 2.** 20.835 (1) (q) of the statutes is created to read:

1 20.835 (1) (q) *County and municipal aid account; wireless 911 fund.* From the
2 wireless 911 fund, the amounts in the schedule to make payments under s. 79.035.
3 No moneys may be encumbered or expended from this appropriation after December
4 31, 2012.

 ****NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

5 **SECTION 3.** 20.835 (1) (r) of the statutes is created to read:

6 20.835 (1) (r) *County and municipal aid account; universal service fund.* From
7 the universal service fund, the amounts in the schedule to make payments to
8 counties, towns, villages, and cities under s. 79.035.

 ****NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

9 **SECTION 4.** 79.035 (1) of the statutes is amended to read:

10 79.035 (1) In 2004 and subsequent years, each county and municipality shall
11 receive a payment from the county and municipal aid account and, beginning with
12 payments in November 2009, from the appropriations under s. 20.835 (1) (q) and (r)
13 in an amount determined under sub. (2).

14 **SECTION 5.** 79.07 of the statutes is created to read:

15 **79.07 Expenditures for emergency services.** (1) Except as provided in
16 sub. (3), beginning in 2010, the amount that each county and municipality spends
17 each year for emergency services shall be no less than the amount that the county
18 or municipality spent in 2009 for emergency services, not including one-time
19 expenses. Each county and municipality shall report the amount it spent for
20 emergency services in 2009, and the amount of its one-time expenses, to the
21 department of revenue at the time and in the manner prescribed by the department.

(2) The department of revenue may adjust any amount reported under sub. (1) to more accurately reflect the amount that the county or municipality submitting the report spent for emergency services.

(3) A county or municipality may decrease the amount it spends for emergency services below its 2009 amount, with the department of revenue's approval, if the decrease in expenditures is a result of operating more efficiently, as determined by the department. For purposes of this section, any decrease approved under this paragraph shall permanently decrease the base amount of expenses for emergency services provided in the county or municipality requesting the decrease by the amount of the decrease.

(4) If a county or municipality fails to comply with this section, the department of revenue may reduce that portion of the county's or municipality's payment under s. 79.035 that is paid from the appropriation under s. 20.835 (1) (r), in an amount determined by the department.

~~SECTION 6. 196.202 (2) of the statutes is amended to read:~~

~~196.202 (2) SCOPE OF REGULATION. A commercial mobile radio service provider is not subject to ch. 201 or this chapter, except as provided in sub. (5), and except that a commercial mobile radio service provider is subject to s. 196.218 (3) if the commission promulgates rules that designate commercial mobile radio service providers as eligible to receive universal service funding under both the federal and state universal service fund programs. If the commission promulgates such rules, a commercial mobile radio service provider and shall respond, subject to the protection of the commercial mobile radio service provider's competitive information, to all reasonable requests for information about its operations in this~~

1 state from the commission necessary to administer the universal service fund s.
2 196.218 (3).

3 **SECTION 7.** 196.218 (3) (a) 3. c. of the statutes is created to read:

4 196.218 (3) (a) 3. c. The amount appropriated under s. 20.835 (1) (r).

5 **SECTION 8.** 196.218 (3) (e) of the statutes is renumbered 196.218 (3) (e) 1. a. and
6 amended to read:

7 196.218 (3) (e) 1. a. A telecommunications provider or other person may
8 establish a surcharge on customers' bills to collect from customers contributions
9 required under this subsection to generate the amounts specified in par. (a) 3. a. and
10 b.

11 **SECTION 9.** 196.218 (3) (e) 1. b. of the statutes is created to read:

12 196.218 (3) (e) 1. b. A telecommunications provider or other person may
13 establish a surcharge on customers' bills to collect from customers contributions
14 required to generate the amounts specified in par. (a) 3. c. If a telecommunications
15 provider or other person establishes such a surcharge, the provider or other person
16 shall identify the surcharge on bills as "911 and emergency response surcharge."

17 **SECTION 10.** 196.218 (3) (e) 2. of the statutes is created to read:

18 196.218 (3) (e) 2. The commission shall provide telecommunications providers
19 and other persons the information necessary to establish the surcharges allowed
20 under subd. 1. a. and b.

21 **SECTION 11.** 196.218 (3) (f) of the statutes is amended to read:

22 196.218 (3) (f) Notwithstanding ss. 196.196 (1) and (5) (d) 2., 196.20 (2m), (5)
23 and (6), 196.213 and 196.215, a telecommunications utility that provides local
24 exchange service may make adjustments to local exchange service rates for the
25 purpose of recovering its contributions to the universal service fund required under

1 this subsection. A telecommunications utility that adjusts local exchange service
2 rates for the purpose of recovering such contributions shall separately identify on
3 customer bills ~~a single amount that is the total amount~~ the portion of the
4 adjustment. ~~that is necessary to generate the amounts specified in par. (a) 3. a. and~~
5 b. and the portion of the adjustment that is necessary to generate the amount
6 specified in par. (a) 3. c., and shall identify the portion necessary to generate the
7 amount specified in par. (3) (a) 3. c. as "911 and emergency response adjustment."
8 The ~~public service~~ commission shall provide telecommunications utilities the
9 information necessary to identify such ~~amounts~~ portions on customer bills.

10 **SECTION 12.** 196.218 (5) (a) 12. of the statutes is created to read:

11 196.218 (5) (a) 12. For the purposes provided in the appropriations under s.
12 20.835 (1) (q) and (r).

13 **SECTION 13.** 256.35 (3m) (em) of the statutes is created to read:

14 256.35 (3m) (em) *Fund limitation.* Except for grants under par. (d) or (e), the
15 commission may not make any distribution from the wireless 911 fund to any person.

16 (END)

D-note

**2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1360/P6ins
MDK:.....

1

INSERT 2A:

universal service fund (USF), which, under current law, consists of contributions that the PSC requires telecommunications providers to make and is used to promote universal access to telecommunications services and other purposes.✓

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1360/P6dn

MDK: j.....

nwn

Date

Sara Hynek:

This version is identical to the previous version, except that the treatment of s. 196.202 (2) is eliminated and there is a corresponding change to the analysis.

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1360/P6dn
MDK:nwn:jf

January 29, 2009

Sara Hynek:

This version is identical to the previous version, except that the treatment of s. 196.202 (2) is eliminated and there is a corresponding change to the analysis.

Mark D. Kunkel
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